

# HOUSE . . . . . No. 4423

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## The Commonwealth of Massachusetts

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Text of House document numbered 4410, being the text of amendments recommended by the committee on Ways and Means, as adopted by the House, as changed by the committee on Bills in the Third Reading, and as amended by the House. January 6 and 7, 2010.

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In the Year Two Thousand and Ten

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“SECTION 1. Chapter 69 of the General Laws is hereby amended by striking out sections 1J and 1K, as appearing in the 2008 Official Edition, and inserting in place thereof the following 2 sections:-

1 Section 1J (a) As used in this section and section 1K the following words shall, unless the  
2 context clearly requires otherwise, have the following meanings:-

3 ‘Board’, the board of elementary and secondary education.

4 ‘Chronically underperforming school’, a school designated by the commissioner as chronically  
5 underperforming pursuant to this section.

6 ‘Chronically underperforming district’, a school district, other than a single school district, that  
7 has been designated as chronically underperforming by the board of elementary and secondary  
8 education pursuant to section 1K.

9 ‘Commissioner’, the commissioner of the department of elementary and secondary education.

10 ‘Department’, the department of elementary and secondary education.

11 'District', or 'school district', the school department of a city or town.

12 'Non-profit entity', a corporation established pursuant to chapter 180.

13 'Superintendent', the superintendent of the school district.

14 'Turnaround plan', a plan developed and approved pursuant to this section or section 1K  
15 designed to promote the rapid improvement of the academic achievement of the students in an  
16 underperforming or chronically underperforming school or district.

17 'Underperforming school', a school designated as underperforming by the commissioner  
18 pursuant to this section.

19 (b) The commissioner may, on the basis of student performance data collected pursuant to  
20 section 1I, a school or district review performed pursuant to section 55A of chapter 15 or  
21 regulations promulgated by the board, designate 1 or more schools in a school district as  
22 underperforming or chronically underperforming; provided, however, that before a school is  
23 deemed chronically underperforming by the commissioner, a school shall have been deemed  
24 underperforming and shall have failed to improve. Schools that score in the lowest 15 per cent  
25 statewide among schools serving common grade levels and which have consistently failed to  
26 improve the academic performance of their students shall be deemed subject to designation as  
27 underperforming or chronically underperforming. The district in which such a school operates  
28 shall submit a description of its personnel evaluation system to the commissioner who shall  
29 ensure that it complies with the guidelines established pursuant to section 1B and is being used to  
30 inform and direct professional development opportunities made available to school personnel.  
31 Not more than 3 per cent of the total number of public schools may be designated as  
32 underperforming or chronically underperforming at any given time.

33 The board shall promulgate regulations establishing standards for determining, on the  
34 basis of data collected pursuant to section 1I or information from a school or district review  
35 performed pursuant to said section 55A of said chapter 15, which schools are underperforming or  
36 chronically underperforming. Said regulations shall take into account multiple indicators of  
37 school quality in making determinations regarding underperformance or chronic  
38 underperformance, including, without limitation: student attendance, dismissal, exclusion and  
39 promotion rates; graduation rates; and dropout rates or the lack of demonstrated significant  
40 improvement for 2 or more consecutive years in core academic subjects, either in the aggregate  
41 or among subgroups of students, including designations based on special education, low-income,  
42 English language proficiency and racial classifications.

43 An underperforming or chronically underperforming school described in the following  
44 subsections shall operate in accordance with the provisions of law regulating other public  
45 schools, except as such provisions may conflict with the provisions of this section. Any student  
46 who is enrolled in a school at the time it is designated as underperforming or chronically

underperforming shall retain the ability to remain enrolled in such school while remaining a resident of the district.

(c) Upon designating 1 or more schools in a school district as an underperforming or chronically underperforming school, the commissioner shall require the creation of a turnaround plan for the school. To facilitate and oversee the creation of the turnaround plan and carry out his responsibilities in this section, the commissioner may use the services of district or departmental personnel, or both, as he deems appropriate. The commissioner may also provide additional services to the local stakeholder group in this subsection as he deems appropriate. The commissioner may allow for an expedited turnaround plan for schools that have been previously designated as underperforming and where the district has turnaround plan that has had a public comment period, and approval of the local school committee.

Prior to the creation of the turnaround plan, the commissioner shall convene a local stakeholder group to soliciting recommendations on the content of such plan to maximize the rapid improvement of the academic achievement of students at the school. The commissioner shall provide due consideration to the recommendations of the stakeholder group. The local stakeholder group shall consist of not more than 11 members, including: (i) the superintendent, or his designee; (ii) the chair of the school committee, or his designee; (iii) the president of the local teachers union, or his designee; (iii) an administrator from the school, who may be the principal, chosen by the commissioner; (v) a teacher from the school chosen by the faculty of the school; (vi) a parent from the school chosen by the local parent organization; (vii) representatives of applicable state and local social service, health and child welfare agencies, chosen by the commissioner; (viii) as appropriate, representatives of state and local workforce development agencies, chosen by the commissioner; (ix) for elementary schools, a representative of an early education and care provider chosen by the commissioner of the department of early education and care and, for middle schools or high schools, a representative of the higher education community selected by the secretary; (x) a member of the community appointed by the chief executive of the city or town; and (xi) as appropriate, a representative of an early education and care provider chosen by the commissioner of the department of early education and care. If the school or district does not have a parent organization or if such organization does not select a parent, the commissioner shall select the parent from among volunteers from the school. The commissioner shall convene such group within 30 days of his designating a school as underperforming or chronically underperforming, and such group shall make its recommendations to the commissioner within 45 days of its initial meeting. Meetings of the local stakeholder group shall be open to the public, and the recommendations submitted to the commissioner shall be publicly available immediately upon their submission.

(d) The turnaround plan shall include provisions to maximize the rapid improvement of the academic achievement of students at the school and shall, to the extent practicable, be based on student outcome data and shall include, but not limited to: (i) data collected pursuant to section 11 or information from a school or district review performed pursuant to section 55A of chapter

15; (ii) student achievement on the Massachusetts Comprehensive Assessment System; (iii) other measures of student achievement approved by the commissioner; (iv) student promotion and graduation rates and dropout rates; (v) achievement data for different subgroups of students, including low-income students as defined in chapter 70, limited English proficient students and students receiving special education; (vi) student attendance, dismissal and exclusion rates; (vii) steps to address social service and health needs of students at the school, and their families, to help students arrive and remain at school ready to learn; (viii) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school community, to promote a safe and secure learning environment; (ix) steps to improve workforce development services provided to students at the school, and their families, to provide students and families with meaningful employment skills and opportunities, as applicable; (x) steps to address achievement gaps for limited English proficient, special education and low-income students, as applicable; (xi) alternative English language learning programs for limited English proficient students, notwithstanding chapter 71A; (xii) a financial plan for the school, including any additional funds to be provided by the district, commonwealth, federal government or other sources; and (xiii) to assess the school across multiple measures of school performance and student success, the turnaround plan shall include measurable annual goals, based on the requirements and provisions of the plan including, but not limited to: (a) student attendance, dismissals and exclusions; (b) student safety and discipline; (c) student promotion and graduation and dropout rate; (d) student achievement on the Massachusetts Comprehensive Assessment System; (e) progress in areas of academic underperformance; (f) progress among subgroups of students, including low-income students as defined by chapter 70, limited English proficient students and students receiving special education; (xiv) developmentally appropriate child assessments from pre-kindergarten through third grade, if applicable. In developing the educational program of the turnaround plan, the commissioner and stakeholder group shall consider including evidenced based approaches to assisting students at risk and closing the achievement gap that are relevant for the school level and demographics of the underperforming school such as, but not limited to, programs that improve school readiness for children including their social, emotional, and cognitive development; universal breakfast; full day kindergarten; early literacy programs; low class size in grades K-3; trauma sensitive schools; intensive English Language Learner programs; inclusion programs; extended day or week programs; summer programs; thematic approaches, e.g. arts, or math, science, and technology; or breaking up large schools into smaller administrative and academic units. To the extent that such programs require additional funds, the superintendent, the local stakeholder group, the school committee and the commissioner shall coordinate with the secretary of education to advocate for grants from the state and federal government and contributions from charitable foundations or private corporations.

The secretaries of health and human services, labor and workforce development and public safety and security, and other applicable state and local social service, health, and child welfare officials shall coordinate with the secretary and the commissioner regarding the

implementation of strategies pursuant to clauses (vii) to (ix), inclusive, of this subsection that are included in a final turnaround plan and shall, subject to appropriation, reasonably support such implementation consistent with the requirements of state and federal law applicable to the relevant programs that each such official is responsible for administering.

(e) The turnaround plan approved by the commissioner may: (i) expand, alter or replace the curriculum and program offerings of the school including the implementation or research based early literacy programs and one on one early literacy interventions for struggling readers; (ii) reallocate the uses of the existing budget of the school; (iii) provide additional funds to the school from the budget of the district, if the school does not already receive funding from the district at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (iv) provide funds, subject to appropriation and following consultation with applicable local unions, to increase the salary of any administrator, school nurse or teacher in the school, in order to attract or retain highly qualified administrators, school nurses or teachers or to reward administrators, school nurses or teachers who work in underperforming schools that achieve the annual goals set forth in the turnaround plan; (v) expand the school day or school year of the school, or both; (vi) for an elementary school, add pre-kindergarten and full-day kindergarten classes, if the school does not already have such classes; (vii) following consultation with applicable local unions, require the principal and all administrators, teachers and staff to reapply for their positions in the school, with full discretion vested in the superintendent regarding any such reapplications; (viii) if, after considering the recommendations of the group of stakeholders, the commissioner considers it necessary to maximize the rapid academic achievement of students at the applicable school by altering the compensation, hours and working conditions of the administrators, teachers, principals and staff at the school or by altering other provisions of a contract of collective bargaining agreement applicable to the administrators, teachers, principals and staff, the commissioner may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreements to facilitate such achievement. The bargaining shall be conducted in good faith and completed not later than 30 days from the point at which the commissioner requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school, the parties shall submit remaining unresolved issues as an appeal to a joint resolution committee for dispute resolution process on the next business day following the end of the 30 day bargaining period or failure to ratify.

The joint resolution committee shall be comprised of 3 members, 1 of whom shall be appointed by the employee organization within 3 business days following the submission of unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the superintendent within 3 business days following the submission of unresolved issues to the joint resolution committee and 1 who shall be selected through the American Arbitration Association who shall have an educational background forthwith forward to the parties a list of 3 names from

166 which the parties may agree upon a single conciliator provided, however, that each conciliator  
167 from among the 3 and within 3 business days the American Arbitration Association shall select  
168 an arbitrator from the remaining names. The joint resolution committee shall conduct a dispute  
169 resolution process to be concluded within 10 business days of selection. This process shall be  
170 conducted in accordance with the rules of the American Arbitration Association and consistent  
171 with this section. The fee for the arbitration shall be shared equally between the 2 parties  
172 involved in the arbitration.

173 The joint resolution committee shall consider the positions of the parties, the designation of  
174 the school as underperforming and the needs of the students in the school. Notwithstanding any  
175 other provision of this chapter, the decision of the joint resolution committee shall be dispositive  
176 of all the issues in dispute and shall be submitted to the parties within 10 business days of the  
177 close of the hearing. Under no circumstance, shall a time extension be granted beyond 10  
178 business days of the close of the hearing. In the event that a decision is not submitted to the  
179 parties within 10 business days, the Commissioner will resolve all outstanding issues; (ix) limit,  
180 suspend or change 1 or more school district policies or practices, as such policies or practices  
181 relate to the school; (x) include a provision of job-embedded professional development for  
182 teachers or school nurses at the school, with an emphasis strategies that involve teacher or school  
183 nurse input and feedback; (xi) provide for increased opportunities for teacher planning time and  
184 collaboration focused on improving student instruction; (xii) establish a plan for professional  
185 development for administrators at the school, with an emphasis on strategies that develop  
186 leadership skills and use the principles of distributive leadership; or (xiii) include additional  
187 components, at the discretion of the commissioner, based on the reasons why the school was  
188 designated as underperforming or chronically underperforming, the findings or recommendations  
189 of a school or district review or the recommendations of the group of stakeholders in subsection  
190 (c); or (xiv) establish strategies to address mobility and transiency among the student population  
191 of the school.

192 If the turnaround plan proposes to reallocate funds to the school from the budget of the  
193 district pursuant to clause (iii), the commissioner shall notify the school committee, in writing, of  
194 the amount and rationale for such reallocation.

195 If the superintendent does not accept an application submitted pursuant to clause (vii), or  
196 if an employee does not submit such an application, the principal, administrator, teacher, or staff  
197 member shall retain such rights as may be provided under law or any applicable collective  
198 bargaining agreement, except that they shall not have the right to displace any teacher in any  
199 other school. Notwithstanding any collective bargaining agreement to the contrary, a teacher  
200 with professional teacher status in a school declared underperforming or chronically  
201 underperforming may be dismissed for good cause, provided that any such dismissal process will  
202 be reviewed solely and exclusively by expedited arbitration.

203 For a school with limited English proficient students, the professional development and  
204 planning time for teachers and administrators identified in clauses (x), (xi) and (xii) shall include

specific strategies and content designed to maximize the rapid academic achievement of limited English proficient students at the school.

(f) Within 60 days of the local stakeholder group making recommendations pursuant to subsection (c), the commissioner shall submit a turnaround plan to the local stakeholder group, and the school committee, both of whom may propose modifications to the plan. The plan shall be immediately available to the public upon said submission. The local stakeholder group and the school committee shall submit any proposed modifications to the turnaround plan to the commissioner within 30 days after the date of submission of the turnaround plan and such proposed modifications shall be immediately available to the public upon their submission. The commissioner shall consider such modifications to the turnaround plan. Not more than 30 days after receiving any proposed modifications pursuant to this subsection, the commissioner shall issue a final turnaround plan for the school, which shall be immediately made available to the public.

(g) Within 30 days of the issuance of a final turnaround plan pursuant to subsection (f), a superintendent, school committee or a local union may appeal to the board regarding 1 or more components of such plan, including the absence of 1 or more modifications proposed pursuant to subsection (f). The board may, by majority vote, modify the plan if the board determines that: (i) such modifications would further promote the rapid academic achievement of students in the applicable school; (ii) a component of the plan was included, or a modification was excluded, on the basis of demonstrably false information or evidence; or (iii) the commissioner failed to meet the requirements of subsections (b) to (f), inclusive. The decision of the board regarding an appeal under this subsection shall be made within 45 days.

(h) In the case of an underperforming school, the commissioner shall, upon the completion of a final turnaround plan, transmit such plan to the applicable superintendent, who shall be responsible for implementing the plan. In the case of a chronically underperforming school, the commissioner shall, upon the completion of a final turnaround plan, select an external receiver to operate the school, who shall be responsible for implementing the plan. A receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low-performing schools or the academic performance of disadvantaged students.

(i) Notwithstanding the provisions of subsection (h), the commissioner may recommend to the board that an external receiver, as defined in subsection (h), be appointed to operate an underperforming school and implement the turnaround plan, or to assist the superintendent with such implementation. The board may, by a majority vote, authorize the appointment of such a receiver upon a determination that: (i) the applicable superintendent is unlikely to implement such plan successfully; or (ii) conditions exist in the district that are likely to negatively affect the ability of the superintendent to implement such plan successfully.

(j) Any external receiver selected by the commissioner to operate an underperforming or chronically underperforming school pursuant to subsection (h) or (i) shall have full managerial and operational control over such school as provided in the turnaround plan. A school placed into receivership pursuant to this section shall continue to operate as a public school and the school district shall remain the employer of record. An external receiver shall be an agent of the school district and shall only be removed by the commissioner.

(k) Each turnaround plan shall be authorized for a period of up to 3 years, subject to subsection (m). The commissioner and the superintendent or external receiver may jointly develop additional components of the turnaround plan and shall jointly develop annual goals for each component of the plan, consistent with the provisions of subsections (c) to (f), inclusive; provided, however, that said additional components or goals of the turnaround plan approved by the commissioner and superintendent may be appealed pursuant to subsection (g). The superintendent or external receiver, as applicable, shall be responsible for meeting the goals of the plan.

(l) In the case of a chronically underperforming school, the commissioner or external receiver shall provide a written report to the school committee on a quarterly basis to provide specific information about the progress being made on the implementation of the school's turnaround plan.

(m) The commissioner shall annually evaluate each underperforming or chronically underperforming school. Said evaluation shall be to determine whether the school has met the annual goals in its turnaround plan and to assess the overall implementation of the turnaround plan. The review shall be in writing and shall be submitted to the superintendent and school committee no later than July 1 for the preceding school year. Such review shall be submitted in a format determined by the department.

Upon a determination by the commissioner that the school has failed to meet 1 or more requirements of the turnaround plan, and that the failure to meet said requirements may be improved through reasonable modification of the plan, or that an amendment is necessary resulting from subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to: changes to contracts, collective bargaining agreements or school district policies, an amendment of the turnaround plan shall be permitted in a manner consistent with the provisions of subsections (e) to (k), inclusive. If the commissioner determines that the school has substantially failed to meet multiple goals in the turnaround plan, the commissioner may: (i) in the case of an underperforming school operated by a superintendent, request authority from the board to appoint an external receiver, as defined in subsection (h), to operate the school; or (ii) in the case of a chronically underperforming school operated by an external receiver, terminate the contract of such receiver. The commissioner shall not exercise the options under clause (i) or (ii) before the completion of the first full school year of the operation of the underperforming or chronically underperforming school.



(n) Upon the expiration of a turnaround plan, the commissioner shall conduct a review of the school to determine whether the school has improved sufficiently, requires further improvement or has failed to improve. On the basis of such review, the commissioner may determine that: (i) the school has improved sufficiently for the designation of the school as underperforming or chronically underperforming to be removed; (ii) the school has improved, but not sufficiently to change its designation, in which case the commissioner may renew the turnaround plan with the superintendent or external receiver or create a new or modified turnaround plan for an additional period of up to 3 years; (iii) in the case of a school that is operated by a superintendent and remains underperforming, appoint an external receiver, as defined in subsection (h), to operate the school; or (4) consistent with the requirements of subsection (b), the school designation should be changed. The commissioner may recommend the appointment of an external receiver, pursuant to subsection (i), if the commissioner determines that a new or modified turnaround plan implemented by the superintendent will not result in rapid improvement. To enforce this subsection, the commissioner shall: (i) in the case of a renewal of an turnaround plan, determine subsequent annual goals for the plan with the input of the local stakeholder group as defined in subsection (c) and pursuant to subsections (c) to (g), inclusive; or (ii) create a new or modified turnaround plan as necessary, consistent with the requirements of this section.

(o) The board shall promulgate regulations for the administration and enforcement of this section; provided that said regulations shall include: (i) provisions for the removal of a designation of a school as an underperforming or chronically underperforming school; (ii) provisions for the transfer of the operation of an underperforming or a chronically underperforming school from an external receiver to the school committee; (iii) provisions to allow a school to retain measures adopted in a turnaround plan for a transitional period if, the commissioner determines, such measures would contribute to the continued improvement of the school; and (iv) provisions that clearly identify the conditions under which such a transitional period shall end and the powers granted to the commissioner and board under this section cease to apply to a school previously designated as underperforming or chronically underperforming.

(p) Annually the commissioner shall issue a report to the chairman of the joint committee on education and the chairman of the house and senate committees on ways and means on the implementation and fiscal impact of this section and section 1K. Such report shall, include, but not be limited, to: lists of all schools and districts currently designated as underperforming or chronically underperforming; the plans and timetable for returning such schools and districts to the local school committee; and strategies used in each of the schools and districts to maximize the rapid academic achievement of students.

Section 1K. (a) Upon a determination by the board, pursuant to regulations promulgated by the board, that a school district, other than a single school district, has scored in the lowest 10 per cent statewide in student achievement data collected pursuant to section 1I, when compared to other district performance in schools of the same grade levels, and has consistently failed to improve the academic performance of students attending school in the district, the commissioner

shall appoint a district review team pursuant to section 55A of chapter 15 to assess and report on the reasons for the underperformance and the prospects for improvement, unless such an assessment has been completed by a district review team within the previous year that the commissioner considers adequate. Upon review of the findings of the district review team, the board may declare the district chronically underperforming. Not more than 2.5 per cent of the total number school districts may be designated as chronically underperforming at any given time.

Following a declaration by the board, the board shall designate a receiver for the district with all the powers of the superintendent and school committee. The receiver shall be a non-profit entity or an individual with a demonstrated record of success in improving low-performing schools or the academic performance of disadvantaged students, and shall report directly to the commissioner. An external receiver designated by the board to operate a district under this subsection shall have full managerial and operational control over such district; provided, however, that the school district shall remain a school district for the purposes of all other general or special laws and a receiver shall be an agent of the school district.

In promulgating regulations regarding designation of a district as chronically underperforming, the board shall ensure that such regulations take into account multiple indicators of district quality, including student attendance, dismissal and exclusion rates, student promotion and graduation rates and dropout rates in the district or the lack of demonstrated significant improvement for 2 or more consecutive years in core academic subjects, either in the aggregate or among subgroups of students, including designations based on special education classification, low-income, English language proficiency and racial classifications.

(b) The commissioner and the receiver shall jointly create a turnaround plan to promote the rapid improvement of the chronically underperforming district. The plan shall focus on the school or schools in the district that have been designated as chronically underperforming pursuant section 1J and the district policies or practices that have contributed to chronic underperformance.

Prior to the creation of the turnaround plan the commissioner and receiver shall convene a local stakeholder group to solicit recommendations on the content of such plan to maximize the rapid improvement of the academic achievement of students. The commissioner shall provide due consideration to the recommendations of the local stakeholder group. The local stakeholder group shall consist of 11 members including: (i) the superintendent, or his designee; (ii) the chair of the school committee, or his designee; (iii) the president of the local teachers union, or his designee; (iv) an administrator from the district, chosen by the commissioner from among volunteers from the district; (v) a teacher from the district, chosen by the local teachers union; (vi) a parent from the district chosen by the local parent organization; (vii) representatives of applicable state and local social service, health and child welfare agencies chosen by the commissioner; (viii) as appropriate, representatives of state and local workforce development

agencies chosen by the commissioner; (ix) for elementary schools, a representative of an early education and care provider chosen by the commissioner of the department of early education and care and, for middle schools or high schools, a representative of the higher education community selected by the secretary; (x) a member of the community appointed by the chief executive of the city or town; (xi) as appropriate, a representative of an early education and care provider chosen by the commissioner of the department of early education and care. If the district does not have a parent organization or if such organization does not select a parent, the commissioner shall select the parents from among volunteers from the district. The commissioner and receiver shall convene such group within 30 days of the board designating a district as chronically underperforming, and such a group shall make its recommendations to the commissioner and receiver within 45 days of its initial meetings. Meetings of the local stakeholder group shall be open to the public, and the recommendations submitted to the commissioner and receiver pursuant to this subsection shall be publicly available immediately upon their submission.

(c) The turnaround plan shall include measures to maximize the rapid improvement of the academic achievement of students in the district and shall, to the extent practicable, base the plan on student outcome data and shall include, but not limited to: (i) data collected pursuant to section 1I, or information from a school or a district review performed pursuant to section 55A of chapter 15; (ii) student achievement on the Massachusetts Comprehensive Assessment System; (iii) other measures of student achievement approved by the commissioner; (iv) student promotion and graduation rates and dropout rates; (v) achievement data for different subgroups of students, including low-income students as defined in chapter 70, limited English proficient students and students receiving special education; (vi) student attendance, dismissal and exclusion rates; (vii) steps to address social service and health needs of students in the district, and their families, to help students arrive and remain at school ready to learn; (viii) steps to improve or expand child welfare services and, as appropriate, law enforcement services in the school district community, to promote a safe and secure learning environment; (ix) steps to improve workforce development services provided to students in the district, and their families, to provide students and families with meaningful employment skills and opportunities, as applicable; (x) steps to address achievement gaps for limited English proficient, special education and low-income students, as applicable; (x1/2) alternative English language learning programs for limited English proficient students, notwithstanding chapter 71A; (xi) a financial plan for the district including any additional funds to be provided by the commonwealth, federal government or other sources; and (xii) to assess the district across multiple measures of district performance and student success, the turnaround plan shall include measurable annual goals based on the requirements and provisions of the plan including, but not limited to: (a) student attendance, dismissal and exclusion rates; (b) student safety and discipline; (c) student promotion and graduation and dropout rates; (d) student achievement on the Massachusetts Comprehensive Assessment System; (e) progress in areas of academic underperformance; and (f) progress among subgroups of students, including low-income students as defined by chapter 70, limited

English proficient students and students receiving special education; (xiii) developmentally appropriate child assessments from pre-kindergarten through third grade, if, applicable.

The secretaries of health and human services, public safety and security and labor and workforce development and other applicable state and local social service, health and child welfare officials shall coordinate with the secretary and the commissioner regarding the implementation of strategies pursuant to clauses (vii) to (ix), inclusive, included in a turnaround plan and shall, subject to appropriation, reasonably support such implementation consistent with the requirements of state and federal law applicable to the relevant programs that each such official is responsible for administering.

(d) The turnaround plan approved by the commissioner may: (i) expand, alter or replace the curriculum and program offerings of the district or of a school in the district including the implementation of research based early literacy programs and one on one early literacy interventions for struggling readers; (ii) reallocate the uses of the existing budget of the district to ensure that all underperforming and chronically underperforming schools in the district receive funding at least equal to the average per pupil funding received for students of the same classification and grade level in the district; (iii) provide funds, subject to appropriation, to increase the salary of any administrator, school nurse or teacher in the district working in an underperforming or chronically underperforming school, in order to attract or retain highly qualified administrators, school nurses or teachers to those schools or in order to reward administrators, school nurses or teachers who work in chronically underperforming districts that achieve the annual goals set forth in the turnaround plan; (iv) expand the school day or school year of schools in the district, or both; (v) if, after considering the recommendations of the group of stakeholders, the commissioner considers it necessary to maximize the rapid academic achievement of students at the applicable school by altering the compensation, hours and working conditions of the administrators, teachers, principals and staff at the school or by altering other provisions of a contract of collective bargaining agreement applicable to the administrators, teachers, principals and staff, the commissioner may request that the school committee and any union bargain or reopen the bargaining of the relevant collective bargaining agreements to facilitate such achievement. The bargaining shall be conducted in good faith and completed not later than 30 days from the point at which the commissioner requested that the parties bargain. The agreement shall be subject to ratification within 10 business days by the bargaining unit members in the school. If the parties are unable to reach an agreement within 30 days or if the agreement is not ratified within 10 business days by the bargaining unit members of the school, the parties shall submit remaining unresolved issues as an appeal to a joint resolution committee for dispute resolution process on the next business day following the end of the 30 day bargaining period or failure to ratify.

The joint resolution committee shall be comprised of 3 members, 1 of whom shall be appointed by the employee organization within 3 business days following the submission of unresolved issues to the joint resolution committee, 1 of whom shall be appointed by the superintendent

within 3 business days following the submission of unresolved issues to the joint resolution committee and 1 who shall be selected through the American Arbitration Association who shall have an educational background forthwith forward to the parties a list of 3 names from which the parties may agree upon a single conciliator provided, however, that each conciliator from among the 3 and within 3 business days the American Arbitration Association shall select an arbitrator from the remaining names. The joint resolution committee shall conduct a dispute resolution process to be concluded within 10 business days for selection. This process shall be conducted in accordance with the rules of the American Arbitration Association and consistent with this section. The fee for the process shall be shared equally between the 2 parties involved in the arbitration.

The joint resolution committee shall consider the positions of the parties, the designation of the district as chronically underperforming and the needs of the students in the school. Notwithstanding any other provision of this chapter, the decision of the joint resolution committee shall be dispositive of all the issues in dispute and shall be submitted to the parties within 10 business days of the close of the hearing. In the event that a decision is not submitted to the parties within 10 business days, the Commissioner will resolve all outstanding issues; (vi) add pre-kindergarten and full-day kindergarten classes, if the district does not already have such classes; (vii) following consultation with applicable local unions, require all district administrators, principals, school administrators, teachers and staff to reapply for their positions within the district, with full discretion vested in the receiver regarding such reapplications; (viii) limit, suspend or change 1 or more school district policies or practices; (ix) include a provision of job-embedded professional development for teachers or school nurses in the district, with an emphasis on strategies that involve teacher or school nurse input and feedback; (x) provide for increased opportunities for teacher planning time and collaboration focused on improving student instruction; (xi) establish a plan for professional development for administrators in the district, with an emphasis on strategies that develop leadership skills and use the principles of distributive leadership; or (xii) include additional components, at the discretion of the commissioner, based on the reasons why the district was designated as chronically underperforming, the findings or recommendations of a district review and recommendations of local stakeholders in subsection (b); or (xiii) establish strategies to address mobility and transiency among the student population of the district.

If the receiver does not accept an application submitted pursuant to clause (vii) or if an employee does not submit such an application, the administrator, principal, teacher or staff member shall retain such rights as may be provided under law or any applicable collective bargaining agreement, except that they shall not have the right to displace any teacher in any other school. A teacher with professional teacher status in a school designated as underperforming or chronically underperforming may be dismissed for good cause.

For a district with limited English proficient students, the professional development and planning time for teachers and administrators identified in clauses (ix), (x) and (xi) shall include

specific strategies and content designed to maximize the rapid academic achievement of limited English proficient students in the district.

(e) The commissioner shall, within 95 days of completion of the turnaround plan required in subsection (b), submit the plan to the board for approval. Within 30 days of submission of the turnaround plan to the board, a superintendent, school committee or local union may appeal to the board regarding 1 or more components of the plan. The board may, by majority vote, modify the plan if the board determines that: (i) such modifications would further promote the rapid academic achievement of students in the district; (ii) such modifications would further promote the rapid improvement of the district; (iii) a component of the plan was included, or a modification was excluded, on the basis of demonstrably false information or evidence; or (iv) the commissioner failed to meet the requirements of subsections (b) to (d), inclusive. The decision of the board regarding an appeal under this subsection shall be made within 45 days.

(f) The turnaround plan shall be authorized for a period of up to 3 years, subject to the provisions of subsection (h). The commissioner and receiver may jointly develop additional components of the plan, pursuant to subsections (b) to (e), inclusive, and shall jointly develop annual goals for each component of the plan. The receiver shall be responsible for meeting the goals of the turnaround plan.

(g) The commissioner and receiver shall provide a written report to the school committee on a quarterly basis providing specific information about the progress of the implementation of the district's turnaround plan.

(h) The commissioner shall annually evaluate the performance of the receiver. The evaluation shall determine whether the district has achieved the annual requirements of the turnaround plan and to assess the overall implementation of the turnaround plan. The evaluation shall be in writing and submitted to the board and the local school committee no later than July 1 for the preceding school year. Such review shall be submitted in a format determined by the board.

Upon determination by the commissioner that the receiver has failed to meet 1 or more requirements of the turnaround plan, and the failure to meet said requirements may be improved through reasonable modification of such plan, or an amendment is necessary resulting from subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to: changes to contracts, collective bargaining agreements or school district policies, the commissioner may amend the turnaround plan, as necessary, subject to the approval of the board and in a manner consistent with subsections (b) to (f), inclusive. If the commissioner determines that the receiver has substantially failed to meet multiple goals in the turnaround plan, the commissioner may terminate such receiver, except that such termination shall not occur before the completion of the first full school year of the receivership of the district.

(i) After the period of receivership, there shall be a reevaluation of a district's status under this section. The board shall promulgate regulations for the administration and enforcement of this

section; provided that said regulations shall include: (i) provisions for the removal of a designation of a district as chronically underperforming; (ii) provisions for the transfer of the operation of a chronically underperforming district from an external receiver to the superintendent and school committee, based on the improvement of such district; (iii) provisions to allow a district to retain measures adopted in a turnaround plan for a transitional period if the commissioner determines such measures would contribute to the continued improvement of the district; and (iv) provisions that clearly identify the conditions under which such a transitional period shall end and the powers granted to the commissioner and board under this section shall cease to apply to a district previously designated as chronically underperforming. After a chronically underperforming district has been placed in receivership, the school committee of such district may petition the commissioner to determine whether the turnaround plan adopted pursuant to subsection (b) should be modified or eliminated, and whether the school district shall no longer be designated as chronically underperforming. The decision of the commissioner shall be based on regulations promulgated by the board pursuant to this subsection. A school committee may seek review by the board of any adverse determination.

(j) Upon failure of a district to sufficiently improve to enable removal of the designation of such district as chronically underperforming, the commissioner may: (i) develop subsequent annual goals for each component of the turnaround plan with the receiver, and renew the turnaround plan for an additional period of up to 3 years; or (ii) create a new turnaround plan, consistent with the requirements of this section.

(k) If a municipality has failed to fulfill its fiscal responsibilities pursuant to chapter 70, the commissioner may declare the school district as chronically underperforming, subject to the approval of the board. The municipality's mayor or chairman of the board of selectmen shall have the opportunity to present evidence to the board. A vote by the board that a school district is chronically underperforming for fiscal reasons shall authorize the commissioner to petition the commissioner of revenue to require an increase in funds for the school district, alleging that the amount necessary in the municipality for the support of public schools has not been included in the annual budget appropriations. The commissioner of revenue shall determine the amount of any deficiency pursuant to the sums required pursuant to chapter 70, if any, and issue an order compelling the municipality to provide a sum of money equal to such deficiency. If the municipality does not provide a sum of money equal to such deficiency, the commissioner of revenue, pursuant to section 23 of chapter 59, shall not approve the tax rate of the municipality for the fiscal year until the deficiency is alleviated. Nothing in this subsection shall be construed as creating a cause of action for educational malpractice by students or their parents, guardians or persons acting as parents.

If the district is designated as chronically underperforming pursuant to this subsection, the provisions of this subsection shall supersede those in subsections (a) to (j), inclusive.

SECTION 2. Chapter 71 of the General Laws is hereby amended by striking out section 89, as so appearing, and inserting in place thereof the following section:-

Section 89. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Board’, the board of elementary and secondary education.

‘Charter school’ and ‘charter schools’, commonwealth charter schools or Horace Mann charter schools unless specifically stated otherwise.

‘Commissioner’, the commissioner of the department of elementary and secondary education.

‘Department’, the department of elementary and secondary education.

‘District’, or ‘school district’, the school department of a city or town.

‘Superintendent’, the superintendent of the district.

(b) The purposes for establishing charter schools are: (i) to stimulate the development of innovative programs within public education; (ii) to provide opportunities for innovative learning and assessments; (iii) to provide parents and students with greater options in selecting schools within and outside their school districts; (iv) to provide teachers with a vehicle for establishing schools with alternative, innovative methods of educational instruction and school structure and management; (v) to encourage performance-based educational programs; (vi) to hold teachers and school administrators accountable for students' educational outcomes; and (vii) to provide models for replication in other public schools.

(c) A commonwealth charter school shall be a public school, operated under a charter granted by the board, which operates independently of any school committee and is managed by a board of trustees. The board of trustees of a commonwealth charter school, upon receiving a charter from the board, shall be deemed to be public agents authorized by the commonwealth to supervise and control the charter school.

A Horace Mann charter school shall be a public school or part of a public school operated under a charter approved by the local school committee in which the school is located and by the local collective bargaining agent; provided, however, that all charters shall be granted by the board. Horace Mann charter schools shall be operated and managed by a board of trustees independent of the school committees which approved said schools. The board of trustees may include a member of the school committee.

(d) Persons or entities eligible to submit an application to establish a charter school shall include, but not be limited to: a non-profit business or corporate entity, 2 or more certified teachers or 10 or more parents; provided, however, that for profit business or corporate entities shall be prohibited from applying for a charter. Said application may be filed in conjunction with



a college, university, museum or other similar non-profit entity. Private and parochial schools shall not be eligible for charter school status. The board may authorize a single board of trustees to manage more than 1 charter school; provided, however, that each school is issued its own charter. The commissioner shall provide technical assistance to public school districts to assist in the development of proposals for Horace Mann charter schools.

(e) The board shall establish the information needed in an application for the approval of a charter school; provided that said application shall include, but not be limited to, a description of: (i) the mission, purpose, innovation and specialized focus of the proposed charter school; (ii) the innovative methods to be used in the charter school and how they differ from the district or districts from which the charter school is expected to enroll students; (iii) the organization of the school by ages of students or grades to be taught, an estimate of the total enrollment of the school and the district or districts from which the school will enroll students; (iv) the method for admission to the charter school; (v) the educational program, instructional methodology and services to be offered to students, including research on how the proposed program may improve the academic performance of the subgroups listed in the recruitment and retention plan; (vi) the school's capacity to address the particular needs of limited English proficient students, if applicable, to learn English and learn content matter, including the employment of staff that meets the criteria established by the department; (vii) how the school will involve parents as partners in the education of their children; (viii) the school governance and bylaws; (ix) a proposed arrangement or contract with an organization that would manage or operate the school, including any proposed or agreed upon payments to such organization; (x) the financial plan for the operation of the school; (xi) the provision of school facilities and pupil transportation; (xii) the number and qualifications of teachers and administrators to be employed; (xiii) procedures for evaluation and professional development for teachers and administrators; (xiv) a statement of equal educational opportunity which shall state that charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, proficiency in the English language or academic achievement; (xv) a student recruitment and retention plan, including deliberate, specific strategies the school will use to ensure the provision of equal educational opportunity as stated in the preceding clause and to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school is expected to enroll students, contains a comparable academic and demographic profile; and (xvi) plans for disseminating successes and innovations of the charter school to other non-charter public schools.

(f) The student recruitment and retention plan required pursuant to clause (xv) of subsection (e) shall include, but not be limited to: a detailed description of deliberate, specific strategies the school will use to maximize the number of students who successfully complete all school requirements and prevent students from dropping out. The student recruitment and retention plan

shall be updated annually and shall include annual goals for: (i) recruitment activities; (ii) student retention activities; and (iii) student retention.

(g) To ensure that a commonwealth charter school shall fulfill its obligations under its recruitment and retention plan, the school district or districts from which the commonwealth charter school is expected to enroll students shall annually provide, at the request of a commonwealth charter school, to a third party mail house authorized by the department, the addresses for all students in the district eligible to enroll in the school, unless a student's parent or guardian requests that the district withhold this information, and the department may require the charter school send a mailing in the most prevalent languages of the district or districts that the charter school is authorized to serve.

(h) An application submitted for the establishment of a commonwealth charter school shall: (i) be submitted to the board for approval pursuant to this section; and (ii) be filed with the local school committee for each school district from which the charter school is expected to enroll students. Before final approval to establish a commonwealth charter school, the board shall hold a public hearing on said application in the school district in which the proposed charter school is to be located, and solicit and review comments on the application from the local school committee of each school district from which said charter school is expected to enroll students. At least 1 member of the board shall attend the public hearing. A comprehensive written summary of all materials prepared by the Department of Elementary and Secondary Education or its administrative subdivisions, which evaluates or recommends approval or disapproval of a charter application must be delivered to the members of the board, the applicant, in support of, or in opposition to, the school submitted not later than 3 days before any board vote on said charter application.

All material in support of, or in opposition to, the school submitted to the department or the board shall be made available to the applicant and affected school districts prior to a vote by the board on a commonwealth charter school application.

(i) (1) Not more than 120 charter schools shall be allowed to operate in the commonwealth at any time, excluding those approved pursuant to paragraph (3); provided, however, that of said 120 charter schools, 48 shall be reserved for Horace Mann charter schools and 72 shall be reserved for commonwealth charter schools. The board shall not approve a new commonwealth charter school in any community with a population of less than 30,000 as determined by the most recent United States Census estimate, unless it is a regional charter school.

Applications to establish a charter school shall be submitted to the board annually by November 15. The board shall review the applications and grant new charters in February of the following year.

(2) In any fiscal year, no public school district's total charter school tuition payment to commonwealth charter schools shall exceed 9 per cent of said district's net school spending;

provided, however, that a public school district's total charter tuition payment to commonwealth charter schools shall not exceed 18 per cent of said district's net school spending if the school district qualifies under paragraph (3). The commonwealth shall incur charter school tuition payments for siblings attending commonwealth charter schools to the extent that their attendance would otherwise cause said school district's charter school tuition payments to exceed 9 per cent of said school district's net school spending or 18 per cent for those districts that qualify under said paragraph (3).

Under no circumstances shall the total number of students attending commonwealth charter schools exceed 4 per cent of the total number of students attending public schools, excluding those approved pursuant to paragraph (3). Not less than 2 of the new commonwealth charters approved by the board in any year shall be granted for charter schools located in districts where overall student performance on the statewide assessment system approved by the board pursuant to section 1I of chapter 69 is in the lowest 10 per cent statewide in the 2 years preceding said charter application.

In any fiscal year, the board shall approve only 1 regional charter school application of any commonwealth charter school located in a school district where overall student performance on the statewide assessment system is in the top 10 per cent in the year preceding charter application. The board may give priority to applicants that have demonstrated broad community support, an innovative educational plan, a demonstrated commitment to assisting the district in which it is located in bringing about educational change and a record of operating at least 1 school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed school seeks to serve.

(3) In any fiscal year, if the board determines the combined Composite Performance Index scores on the English language arts and mathematics Massachusetts Comprehensive Assessment System exams for a school district place said district in the lowest 10 per cent of all statewide Massachusetts Comprehensive Assessment System exam performance scores released in the 2 consecutive school years prior to the date the charter school application is submitted, the school district's total charter school tuition payment to commonwealth charter schools may exceed 9 per cent of said district's net school spending but shall not exceed 18 per cent. For a district qualifying under this paragraph whose charter school tuition payments exceed 9 per cent of said school district's net school spending, the board shall only approve an application for the establishment of a commonwealth charter school if an applicant, or a provider with which an applicant proposes to contract, has a record of operating at least 1 school or similar program that demonstrates academic success and organizational viability and serves student populations similar to those the proposed school seeks to serve, from the following categories: eligible for free lunch; eligible for reduced price lunch; special education; limited English proficient of similar language proficiency level as measured by the Massachusetts English Proficiency Assessment examination; sub-proficient, which shall mean students who have scored in the 'needs improvement', 'warning' or 'failing' categories on the mathematics or English language

arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement; students who are designated as at risk of dropping out of school based on predictors determined by the department; students who have dropped out of school; or other at-risk students who should be targeted to eliminate achievement gaps among different groups of students. For district approaching its net school spending cap, the board shall give preference to applications from providers building networks of schools in more than 1 municipality.

The recruitment and retention plan of charter schools approved under the provisions of this paragraph shall, in addition to the requirements under subsections (e) and (f), including, but not limited to, a detailed description of deliberate, specific strategies the charter school will use to attract, enroll and retain a student population that, when compared to students in similar grades in schools from which the charter school will enroll students, contains a comparable or greater percentage of students from either special education and students who are limited English proficient or similar language proficiency as measured by the Massachusetts English Proficiency Assessment examination and 2 or more of the following categories: students eligible for free lunch; students eligible for reduced price lunch; students who are sub-proficient, which shall mean students who have scored in the 'needs improvement', 'warning' or 'failing' categories on the mathematics or English language arts exams of the Massachusetts Comprehensive Assessment System for 2 of the past 3 years or as defined by the department using a similar measurement; students who are determined to be at risk of dropping out of school based on predictors determined by the department; students who have dropped out of school; or other at-risk students who should be targeted in order to eliminate achievement gaps among different groups of students from 3 or more of the categories listed above. If a school is or shall be located in a district with 10 per cent or more of limited English proficient students, the recruitment strategies shall include a variety of outreach efforts in the most prevalent languages of the district. The recruitment and retention plan shall be updated each year to account for changes in both district and charter school enrollment.

If a district is no longer in the lowest 10 per cent, the net school spending cap shall be 9 per cent, unless the district net school spending was above 9 per cent in the year prior to moving out of the lowest 10 per cent in which case the net school spending cap shall remain at the higher level plus enrollment previous approved by the board. The department shall determine and make available to the public a list of the school districts in said lowest 10 per cent.

(j) The board shall make the final determination on granting charter school status and may condition charters on the applicant's taking certain actions or maintaining certain conditions. The board shall establish criteria for the approval of a charter application and recommendations to the board shall be based upon and reference those criteria.

If a final application is deemed inadequate by the department, the department may provide feedback to the applicant and invite it to submit a stronger application

subsequently. Once a final application has been filed, only minor, non-substantive amendments shall be allowed. The department shall maintain a written detailed summary of interviews it conducts with final charter applicants, and include that summary with the final application materials that are provided to the board, local school officials and the public.

(k) A charter school established under a charter granted by the board shall be a body politic and corporate with all powers necessary or desirable for carrying out its charter program, including, but not limited to:

(1) to adopt a name and corporate seal; provided that any name selected must include the words 'charter school';

(2) to sue and be sued, but only to the same extent and upon the same conditions that a municipality can be sued;

(3) to acquire real property, from public or private sources, by lease, lease with an option to purchase, or by gift, for use as a school facility; however, in the case of a Horace Mann charter school, the approval of the local school committee shall be obtained before acquisition of any such real property owned or controlled by such body;

(4) to receive and disburse funds for school purposes;

(5) to make contracts and leases for the procurement of services, equipment and supplies; provided, however, that if the charter school intends to procure substantially all educational services under contract with another person, the terms of such a contract must be approved by the board either as part of the original charter or by way of an amendment thereto; provided, further that the board shall not approve any such contract terms, the purpose or effect of which is to avoid the prohibition of this section against charter school status for private and parochial schools;

(6) to incur temporary debt in anticipation of receipt of funds; provided that a Horace Mann school shall obtain the approval of the local school committee and appropriate local appropriating authorities and officials relative to any proposed lien or encumbrance upon public school property or relative to any financial obligation for which the local school district shall become legally obligated; and provided further, that notwithstanding any law to the contrary, the terms of repayment of any charter school's debt shall not exceed the duration of the school's charter without the approval of the board;

(7) to solicit and accept grants or gifts for school purposes;

(8) to have such other powers available to a business corporation formed under chapter 156B that are not inconsistent with this chapter.

(l) Charter schools shall not charge any public school for the use or replication of any part of their curriculum subject to the prescriptions of any contract between the charter schools and any third party providers.

(m) Charter schools shall be open to all students, on a space available basis, and shall not discriminate on the basis of race, color, national origin, creed, sex, ethnicity, sexual orientation, mental or physical disability, age, ancestry, athletic performance, special need, or proficiency in the English language or a foreign language, and academic achievement. Charter schools may limit enrollment to specific grade levels and may structure curriculum around particular areas of focus such as mathematics, science or the arts. There shall be no application fee for admission to a charter school. There shall be no tuition charge for students attending charter schools.

(n) Preference for enrollment in a commonwealth charter school shall be given to students who reside in the city or town in which the charter school is located. Priority for enrollment in a Horace Mann charter school shall be given first to students actually enrolled in said school on the date that the application is filed with the board and to their siblings; second to other students actually enrolled in the public schools of the district where the Horace Mann charter school is to be located; and third to other resident students.

If the total number of students who are eligible to attend and apply to a charter school and who reside in the city or town in which the charter school is located, or are siblings of students already attending said charter school, is greater than the number of spaces available, an admissions lottery, including all eligible students applying, shall be held to fill all of the spaces in that school from among said students. If there are more spaces available than eligible applicants from the city or town in which said charter school is located and who are siblings of current students, and more eligible applicants than spaces left available, a lottery shall be held to determine which of said applicants shall be admitted; provided, however, that any lottery conducted for Horace Mann charter schools shall reflect the enrollment priorities of this section. Notwithstanding the provisions of this subsection, upon application by the board of trustees of a charter school or by the persons or entities seeking to establish a charter school, the board may amend or grant a charter designating such school a regional charter school; provided, however, that such regional charter school shall be exempt from the local preference provision of this paragraph; provided further, that such regional charter school shall continue to grant a preference of siblings of currently enrolled students; and provided further, that if the number of applicants remaining is greater than the number of spaces available, such regional charter school shall conduct a single lottery to determine which applicants shall be admitted.

When a student stops attending a charter school for any reason, the charter school shall fill the vacancy with the next available student on the waitlist for the grade in which the vacancy occurs and shall continue through the waitlist until a student fills the vacant seat. If there is no waitlist, a charter school shall publicize an open seat to the students of the sending district or districts and make attempts to fill said vacant seat. Charter schools shall attempt to fill vacant

seats up to February 15, provided, however, that charter schools may but are not required to fill vacant after February 15. If a vacancy occurs after February 15, such vacancy shall remain with the grade cohort and shall be filled in the following September if it has not previously been filled. A vacancy occurring after February 15 shall not be filled by adding a student to a lower grade level. For schools that begin in grades K, 1, 2, or 3, this paragraph shall apply only to the first three grades served in the school. For schools that begin in grades 4, 5, 6, 7, or 8, this paragraph shall apply only to the first two grades served in the school. For schools that begin in grade 9, this paragraph shall apply only to the first grade served in the school. Within 30 days of a vacancy being filled, the charter school shall send the name of the student filling such vacancy to the department for the purposes of the department updating its waitlist.

The names of students who entered the lottery but did not gain admission shall be maintained on a waitlist, which shall be forwarded to the department no later than June 1 in the year in which the lottery is held. In addition to the names of students, the school shall supply to the department each student's home address, telephone number, grade level and other information the department deems necessary. The department shall maintain a consolidated waitlist for each municipality in order to determine the number of individual students in each municipality seeking admission to charter schools.

(o) Each charter school shall annually, no later than April 1, notify each public school district in writing of the number of students who will be attending the charter school from that district the following September as well as the number of new students who will be transferring from that district to the charter school in the following September. Tuition for charter school students shall only be paid for the number of students for whom notification has been reported by April 1. Tuition for charter school students shall be paid only for students actually enrolled in said school.

(p) A student may withdraw from a charter school at any time and enroll in another public school where said student resides.

A student may be expelled from a charter school based on criteria determined by the board of trustees, and approved by the board, with the advice of the principal and teachers; provided, however, that charter school policies shall be consistent with sections 37H and 37H½.

(q) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or any other suitable location; provided, however, that no school building assistance funds authorized pursuant to chapter 70B shall be awarded to a commonwealth charter school for the purpose of constructing, reconstructing or improving a commonwealth charter school.

(r) The school committee of each district where a Horace Mann charter school is located shall develop a plan to disseminate innovative practices of said charter school to other public schools within the district subject to the provisions of any contract between the Horace Mann charter school and any third party provider.

842 The commissioner shall facilitate the dissemination of successful innovation programs of  
843 charter schools and provide technical assistance for other school districts to replicate such  
844 programs. Each charter school shall collaborate with its sending district or districts on the  
845 sharing of innovative practices.

846 (s) A charter school shall operate in accordance with its charter and the provisions of law  
847 regulating other public schools; provided, however, that the provisions of sections 41 and 42  
848 shall not apply to employees of commonwealth charter schools. Charter schools shall comply  
849 with the provisions of chapters 71A and 71B; provided, however, that the fiscal responsibility of  
850 any special needs student currently enrolled in or determined to require a private day or  
851 residential school shall remain with the school district where the student resides. If a charter  
852 school expects that a special needs student currently enrolled in the charter school may be in  
853 need of the services of a private day or residential school, it shall convene an individual  
854 education plan team meeting for said student. Notice of the team meeting shall be provided to the  
855 special education department of the school district in which the child resides at least 5 days in  
856 advance. Personnel from the school district in which the child resides shall be allowed to  
857 participate in the team meeting concerning future placement of the child.

858 (t) Horace Mann charter schools shall be exempt from local collective bargaining agreements to  
859 the extent provided by the terms of its charter; provided, however, that employees of the Horace  
860 Mann charter school shall continue to be members of the local collective bargaining unit and  
861 shall accrue seniority and shall receive, at a minimum, the salary and benefits established in the  
862 contract of the local collective bargaining unit where said Horace Mann charter school is located.  
863 Employees of Horace Mann charter schools shall be exempt from all union and school  
864 committee work rules to the extent provided by said school's charter. Employees in Horace Mann  
865 charter schools shall be required to work the full work day and work year to the extent provided  
866 by the terms of the school's charter.

867 (u) Notwithstanding the provisions of this section or any other general or special law to the  
868 contrary, for the purposes of chapter 268A: (i) a charter school shall be deemed to be a state  
869 agency; and (ii) the appointing official of a member of the board of trustees of a charter school  
870 shall be deemed to be the commissioner. Members of boards of trustees of charter schools  
871 operating under the provisions of this section shall file a disclosure annually with the state ethics  
872 commission, the department and the city or town clerk wherein such charter school is located.  
873 Said disclosure is in addition to the requirements of said chapter 268A and a member of a board  
874 of trustees must also comply with the disclosure and other requirements of said chapter 268A.  
875 The form of the disclosure shall be prescribed by the ethics commission and shall be signed  
876 under penalty of perjury. Such form shall be limited to a statement in which members of the  
877 board of trustees shall disclose any financial interest that they or a member of their immediate  
878 families, as defined in section 1 of said chapter 268A, have in any charter school located in the  
879 commonwealth or in another state or with a person doing business with a charter school.



Each member of a board of trustees of a charter school shall file such disclosure for the preceding calendar year with the commission within 30 days after becoming a member of such board of trustees, on or before September 1 of each year thereafter that such person is a member of such board and on or before September 1 of the year after such person ceases to be a member of such board; provided, however, that no member of a board of trustees shall be required to file such disclosure for the year in which he ceases to be a member of such board if he served less than 30 days in such year.

(v) Students in charter schools shall be required to meet the same performance standards, testing and portfolio requirements set by the board for students in other public schools.

(w) The board of trustees, in consultation with the teachers, shall determine the school's curriculum and develop the school's annual budget. The board of trustees of each Horace Mann charter school shall annually submit to the superintendent and school committee of the district in which such school is located a budget request for the following fiscal year. The school committee shall act on such budget request in conjunction with its actions on the district's overall budget. Each Horace Mann charter school shall receive in response to the budget request not less than it would have under the district's budgetary allocation rules. The board of trustees may appeal any disproportionate budgetary allocation to the commissioner, who shall determine an equitable funding level for such school and shall require the school committee to provide such funding.

Following the appropriation of the district's operating budget for the fiscal year, the amount approved by the local appropriating authority for the operation of each Horace Mann charter school shall be available for expenditure by the board of trustees of such school for any lawful purpose without further approval by the superintendent or the school committee. In no case shall a Horace Mann charter school expend or incur obligations in excess of its budget request; provided, however, that a Horace Mann charter school shall be authorized to spend federal and state grants and other funds received independent of the school district not accounted for in said charter school's budget request without prior approval from the superintendent or the school committee.

(x) Upon approval of a Horace Mann charter school by the board, the superintendent where the Horace Mann charter school is to be located shall reassign, to the extent provided by the terms of its charter, any faculty member who wishes to be reassigned to another school located within said district.

(y) Employees of charter schools shall be considered public employees for purposes of tort liability under chapter 258 and for collective bargaining purposes under chapter 150E. The board of trustees shall be considered the public employer for purposes of tort liability under said chapter 258 and for collective bargaining purposes under said chapter 150E; provided, however, that in the case of a Horace Mann charter school, the school committee of the school district in

which the Horace Mann charter school is located shall remain the employer for collective bargaining purposes under said chapter 150E. Teachers employed by a charter school shall be subject to the state teacher retirement system under chapter 32 and service in a charter school shall be 'creditable service' within the meaning thereof.

A charter school shall recognize an employee organization designated by the authorization cards of 50 per cent of its employees in the appropriate bargaining unit as the exclusive representative of all the employees in such unit for the purpose of collective bargaining.

(z) Each local school district shall be required to grant a leave of absence to any teacher in the public schools system requesting such leave to teach in a commonwealth charter school. A teacher may request a leave of absence for up to 2 years.

At the end of the second year the teacher may either return to his former teaching position or, if he chooses to continue teaching at said commonwealth charter school, resign from his school district position.

(aa) Notwithstanding section 59C, the internal form of governance of a charter school shall be determined by the school's charter.

(bb) A charter school shall comply with all applicable state and federal health and safety laws and regulations.

(cc) The children who reside in the school district in which the charter school is located shall be provided transportation to the charter school by the resident district's school committee on similar terms and conditions as transportation is provided to children attending local district schools if such transportation is requested by the charter school. In providing such transportation, said school committee shall accommodate the particular school day and school year of the charter school; provided, however, that in the event that a school committee limits transportation for district school students, the school district shall not be required to provide transportation to any commonwealth charter school beyond said limitations. Schools operating pursuant to a charter granted after January 1, 1997, and all charter schools during fiscal year 1999 and thereafter, shall not receive funds for transportation above the amount actually required by such charter school for the provision of transportation services to eligible students. If the sending district provides an alternative method of transportation for students enrolled in the sending district's public schools, it shall not be assessed for transportation costs which exceed the per pupil cost of said alternative. Costs for transportation shall be included only if transportation is provided for students in the same program and grade level as those in the charter school. Students who do not reside in the district in which the charter school is located shall be eligible for transportation in accordance with section 12B of chapter 76. A regional charter school as designated by the board, and whose charter provides for transportation of all students from charter municipalities shall also be reimbursed by the commonwealth under section 16C of

chapter 71 for transportation provided to pupils residing outside the municipality where the charter school is located, but no reimbursement for transportation between the charter school and home shall be made on account of any pupil who resides less than 1.5 miles from the charter school, measured by a commonly traveled route. All such transportation shall be determined in advance of the approval of the district's final budget for a fiscal year; provided, however, that a commonwealth charter school shall be required to determine such transportation in the first year of its operation as soon as practicable.

(dd) A charter granted by the board shall be for 5 years. The board shall develop procedures and guidelines for revocation and renewal of a school's charter; provided, however, that a charter for a Horace Mann charter school shall not be renewed by the board without a majority vote of the school committee and local collective bargaining unit in the district where said charter school is located; provided, however, that a commonwealth charter shall not be renewed unless the board of trustees of the charter school has documented in a manner approved by the board that said commonwealth charter school has provided models for replication and best practices to the commissioner and to other public schools in the district where the charter school is located.

When deciding on charter renewal, the board shall consider progress made in student academic achievement, whether the school has met its obligations and commitments under the charter, the extent to which the school has followed its recruitment and retention plan by using deliberate, specific strategies towards recruiting and retaining the categories of students enumerated in paragraph (3) of subsection (i) and the extent to which the school has enhanced its plan as necessary. The board may impose conditions on the charter school upon renewal if it fails to adhere to and enhance its recruitment and retention plan as required. When deciding on charter renewal, the board shall take into account the annual attrition of students. The board shall also consider innovations that have been successfully implemented by the charter school and the evidence that supports the effectiveness of these practices. Upon renewal of its charter, a school shall update and enhance its recruitment and retention plan as necessary to account for changes in enrollment.

(ee) The board may revoke a school's charter if the school has not fulfilled any conditions imposed by the board in connection with the grant of the charter or the school has violated any provision of its charter. The board may place conditions on a charter or may place a charter school on a probationary status to allow the implementation of a remedial plan after which, if said plan is unsuccessful, the charter may be summarily revoked.

(ff) Commonwealth charter schools shall be funded as follows: the commonwealth shall pay a tuition amount to the charter school, which shall be the sum of the tuition amounts calculated separately for each district sending students to the charter school. Tuition amounts for each sending district shall be calculated by the department using the formula set forth herein, to reflect, as much as practicable, the actual per pupil spending amount that would be expended in the district if the students attended the district schools. The tuition amount shall be calculated

separately for each district sending students to a charter school, and for each charter school to which a district sends students. Each district's per pupil tuition amount for each charter school to which it sends students shall include a per pupil foundation budget component, adjusted to reflect the actual net school spending in the sending district.

In calculating the per pupil foundation budget component, the department shall calculate a foundation budget for the students from each sending district attending the charter school in the previous fiscal year, pursuant to the provisions of section 2 of chapter 70; provided, that the department shall not include in said calculation the assumed tuitioned-out special education enrollment, nor any amounts generated by said assumed enrollment, as defined by said section 2. The per pupil foundation budget component shall be the district's foundation budget for the charter school, as so calculated, divided by the number of students attending the charter school from the sending district in the previous fiscal year. The per pupil foundation budget component shall be calculated separately for each charter school to which a district sends students. The foundation budget for a charter school shall be the sum of the foundation budgets for the charter school for each district sending students to the charter school.

In adjusting the per pupil foundation budget component, the department shall calculate for each sending district an above foundation spending percentage, which shall be the percentage by which the district's actual net school spending exceeds the foundation budget for the district, as calculated pursuant to the provisions of chapter 70. The department shall further calculate the percentage of actual net school spending reported by the sending district associated with tuition costs for tuitioned-out special education students, including education that occurs in educational collaboratives, and with spending on health care costs for retired employees, for any district for which such costs are included in net school spending, and shall reduce the district's above foundation spending percentage proportionately. The per pupil foundation budget component for each charter school to which the sending district sends students shall be increased by said adjusted above foundation spending percentage.

The total tuition amount owed by a sending district to a charter school shall be the per pupil tuition amount as defined above, multiplied by the total number of students attending the charter school from that district in the current fiscal year. The sending district's total charter school tuition amount for purposes of the following paragraphs shall be the sum of the district's tuition amounts for each charter school to which the district sends students, calculated using the provisions of this section. The receiving charter school's total charter school tuition amount shall be the sum of the tuition amounts calculated for the charter school for each district sending students to the charter school.

If a charter school student previously attended a private or parochial school or was home schooled, the commonwealth shall assume the first year cost for that student and shall not reduce the sending district's chapter 70 aid for that student's tuition in that fiscal year.

1029           The state treasurer is hereby authorized and directed to deduct a district's total charter  
1030 school tuition amount, as calculated herein, from the total state school aid, as defined in section 2  
1031 of said chapter 70, of the district in which the student resides prior to the distribution of said aid.  
1032 In the case of a child residing in a municipality which belongs to a regional school district, the  
1033 charter school tuition amount shall be deducted from said chapter 70 education aid of the school  
1034 district appropriate to the grade level of the child. If, in a single district, the total of all such  
1035 deductions exceeds the total of said education aid, this excess amount shall be deducted from  
1036 other aid appropriated to the city or town. If, in a single district, the total of all such deductions  
1037 exceeds the total state aid appropriated, the commonwealth shall appropriate this excess amount;  
1038 provided, however, that if said district has exempted itself from the provisions of said chapter 70  
1039 by accepting section 14 of said chapter 70, the commonwealth shall assess said district for said  
1040 excess amount.

1041           The state treasurer is hereby further authorized and directed to disburse to the charter  
1042 school an amount equal to the charter school's total charter school tuition amount as defined  
1043 above.

1044           The department shall, subject to appropriation, provide funding to charter schools for a  
1045 portion of the per pupil capital needs component included in the charter tuition amount and shall  
1046 reimburse the sending school districts for said costs. In fiscal year 2011 and thereafter, such  
1047 funding shall not be less than the per pupil amount provided in fiscal year 2010.

1048 (gg) Any district whose total charter school tuition amount is greater than its total charter school  
1049 tuition amount for the previous year shall be reimbursed by the commonwealth in accordance  
1050 with this paragraph and subject to appropriation; provided, however, that no funds for said  
1051 reimbursements shall be deducted from funds distributed pursuant to chapter 70. The  
1052 reimbursement amount shall be equal to 100 per cent of the increase in the year in which the  
1053 increase occurs; 60 per cent of that amount in the first year following; and 40 per cent of that  
1054 amount in the second year following.

1055 (hh) If the unencumbered amount of cumulative surplus revenue from tuition held by a charter  
1056 school at the end of a fiscal year, less (i) the amount of the fourth quarter tuition payment, (ii) the  
1057 amount held in reserve for the purchase or renovation of an academic facility pursuant to a  
1058 capital plan, and (iii) any reserve funds held as security for bank loans, exceeds 20 per cent of its  
1059 operating budget and its budgeted capital costs for the succeeding fiscal year as is reported in a  
1060 capital plan to be submitted in the school's most recent annual report, the amount in excess of  
1061 said 20 per cent shall be returned by the charter school to the sending district or districts and the  
1062 state in proportion to their share of tuition paid during the fiscal year. At the end of each fiscal  
1063 year, the commissioner shall certify the amounts described above and the amount, if any, by  
1064 which it exceeds 20 per cent of the school's operating budget and its budgeted capital costs for  
1065 the succeeding fiscal year, and shall report such amount to the school committee of the sending  
1066 district or districts and the applicable board of selectmen or city council by December 1 of each

year. A charter school shall annually make any payment required by this subsection no later than December 31.

(ii) No teacher shall be hired by a commonwealth charter school who is not certified pursuant to section 38G unless the teacher has successfully passed the state teacher test as required in said section 38G.

(jj) Each charter school shall submit an annual report, no later than August 1, to the board, the local school committee, each parent or guardian of its enrolled students and each parent or guardian contemplating enrollment in that charter school. The annual report shall be in such form as may be prescribed by the board and shall include, but not be limited to: (i) discussion of progress made toward the achievement of the goals set forth in the charter; and (ii) a financial statement setting forth by appropriate categories the revenue and expenditures for the year just ended and a balance sheet setting forth the charter school's assets, liabilities and fund balances or equities.

The department shall promulgate regulations creating a reporting requirement for a charter school's net asset balance at the end of the fiscal year; provided, however, that said regulations shall require, without limitation, the following: the revenue and expenditures for the year just ended with a specific accounting of the uses of public and private dollars; how the capital needs component of the charter school's tuition was spent; compensation and benefits for teachers, staff, administrators, executives, and board of trustees; the amount of any and all funds transferred to a management company; the sources of any surplus funds, specifically whether they are private or public; how any surplus funds were used in the previous fiscal year; and the planned use of any surplus funds in the upcoming fiscal year on in future fiscal years.

Each charter school shall keep an accurate account of all its activities and all its receipts and expenditures and shall annually cause an independent audit to be made of its accounts. Such audit shall be filed annually on or before January 1 with the department and the state auditor and shall be in a form prescribed by the state auditor. The state auditor may investigate the budget and finances of charter schools and their financial dealings, transactions and relationships, and shall have the power to examine the records of charter schools and to prescribe methods of accounting and the rendering of periodic reports.

(kk) The commissioner shall collect data on the racial, ethnic and socio-economic make-up of the student enrollment of each charter school in the commonwealth. The commissioner shall also collect data on the number of students enrolled in each charter school who have individual education plans pursuant to chapter 71B and those requiring English language learners programs under chapter 71A. The commissioner shall file said data annually with the clerks of the house and senate and the joint committee on education not later than December 1.

(ll) Individuals or groups may complain to a charter school's board of trustees concerning any claimed violations of the provisions of this section by the school. If, after presenting their

complaint to the trustees, the individuals or groups believe their complaint has not been adequately addressed, they may submit their complaint to the board which shall investigate such complaint and make a formal response.

(mm) The board shall promulgate regulations for implementation and enforcement of this section.

SECTION 3. Said chapter 71 is hereby further amended by adding the following section:-

Section 92. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:-

‘Applicant’, the person applying to establish an innovation school.

‘Board’, the board of trustees of an innovation school; provided, however, that an innovation school shall not be required to establish a board.

‘Commissioner’, the commissioner of the department of elementary and secondary education

‘Department’, the department of elementary and secondary education.

‘Committee’, the innovation plan committee established pursuant to subsection (c).

‘District’ or ‘school district’, the school department of a city or town.

‘Innovation plan’, shall articulate the areas of autonomy and flexibility required by this section that the innovation school will utilize; provided, however, that to the extent practicable, the innovation plan shall be based on student outcome data, including, but not limited to: (i) student achievement on the Massachusetts Comprehensive Assessment System; (ii) other measures of student achievement approved by the commissioner; (iii) student promotion and graduation rates and dropout rates; (iv) achievement data for different subgroups of students, including low-income students as defined pursuant to chapter 70, limited English proficient students and students receiving special education; and (v) student attendance, dismissal and exclusion rates.

‘Innovation school’ shall be a public school, operating within a district, and authorized by the local school committee established for the purpose of improving school performance and student achievement through increased autonomy and flexibility; provided, however, that an innovation school shall be a school: (i) in which school faculty and leadership are primarily responsible for developing the innovation plan under which the school operates, and in which school leadership is responsible for meeting the terms of the innovation plan; or (ii) in which an external partner or partners is primarily responsible for developing the innovation plan under which the school operates, and in which the external partner or partners is responsible for meeting the terms of the innovation plan.

‘Person’, a parent, teacher, parent-teacher organization, principal, superintendent, school committee, teacher union, college or university, non-profit community-based organization, non-profit business or corporate entity, non-profit charter school operator, non-profit education management organization, educational collaborative, consortia of these groups, or any non-profit entity authorized by the commissioner; provided, however, that private or parochial schools shall not be considered a person for the purposes of this section.

‘Superintendent’, the superintendent of the district.

(b) A person may establish an innovation school as: (i) a new public school; or (ii) as a conversion of an existing public school; provided, however, that upon election of a student enrolled in an existing public school, said student shall remain enrolled in the innovation school.

An innovation school shall have increased autonomy and flexibility in one or more of the following areas: (i) curriculum; (ii) budget; (iii) school schedule and calendar; (iv) staffing policies and procedures, including waivers from, or modifications to, contracts or collective bargaining agreements; (v) school district policies and procedures; and (vi) professional development. An innovation school shall receive each school year from the district the same per pupil allocation as an equivalent district school. An innovation school may retain any unused funds and use such funds in subsequent school years. An innovation school may establish a non-profit organization that may, without limitation, assist the school with fundraising; provided, however, that a district may not reduce its funding to an innovation school as a result of such school’s fundraising activities.

(c) A person seeking to establish an innovation school shall file with the superintendent an application including, but not be limited to, a description of: (i) whether the school will be a new school or a conversion of an existing public school; (ii) if the school is a new school, the proposed location of the school; (iii) if the school is a conversion of an existing public school the name of the public school to be converted; (iv) the external partners, if any, that will be involved in the operation of the innovation school; (v) the number of students projected to be enrolled, and the number of staff expected to be employed at the school; (vi) the overall vision for the school, including with respect to improving school performance and student achievement; (vii) specific needs or challenges the innovation school will be designed to address; (viii) a preliminary assessment of the autonomy and flexibility to be provided pursuant to this section that the school will seek; (ix) why such flexibility is desirable to carry out the objectives of the school; (x) a preliminary description of the process that will be used to involve appropriate stakeholders in the development of the innovation plan; and (xi) a proposed timetable for development and establishment of the proposed innovation school.

Upon submission of the application to the superintendent, the superintendent shall, within 30 days, convene a screening committee consisting of the superintendent or his designee, a



1172 school committee member designated by the school committee, and a representative from the  
1173 leadership of the local teachers union designated by the president of the local union.

1174         The screening committee shall review the application for the overall purpose of  
1175 determining whether the application: (i) presents a sound and coherent plan for improving school  
1176 performance and student achievement; (ii) supports or enhances existing educational efforts in  
1177 the district; and (iii) reasonably can be expanded into a comprehensive innovation plan. In the  
1178 case of a new school, the committee shall prepare an impact statement describing how the new  
1179 school will affect the children and faculty in the district. Within 30 days of receiving an  
1180 application, the screening committee shall, on the basis of a 2/3 vote, accept or reject the  
1181 application, or return the application to the eligible applicant for revisions. If an application is  
1182 rejected or returned, the screening committee shall submit, within 21 days, a detailed explanation  
1183 for such decision to the applicant. Any application that is rejected or returned may be revised  
1184 and resubmitted for subsequent consideration.

1185         Upon approval of the application by the screening committee the applicant shall, within  
1186 30 days, form an innovation plan committee consisting of not more than 11 individuals. The  
1187 committee shall: (i) develop the innovation plan; (ii) assure that appropriate stakeholders are  
1188 represented in the development of the proposed innovation school; and (iii) provide meaningful  
1189 opportunities for such stakeholders to contribute to the development of such school. The size  
1190 and composition of the innovation plan committee shall be determined by the applicant;  
1191 provided, however, that the committee shall include: (a) the applicant or a designee; (b) the  
1192 superintendent or his designee; (c) a school committee member or their designee; (d) a parent of  
1193 a child enrolled in the public school to be converted, or in the case of a new school, from the  
1194 district; (e) a principal employed by the district; and (f) two teachers employed by the district.  
1195 The applicant shall select the parent from among nominees submitted by parent-teacher  
1196 organizations in the district. If the district does not contain a parent-teacher organization, or if  
1197 such organization does not submit nominees, the applicant shall select the parent from among  
1198 volunteers in the area or community the school is expected to serve. The applicant shall select  
1199 the principal and 1 teacher from among volunteers in the district, and 1 teacher from among  
1200 nominees submitted by the local teachers union.

1201         The committee shall develop the innovation plan for the proposed innovation school.  
1202 The purpose of the innovation plan shall be to establish the areas of autonomy and flexibility for  
1203 the proposed innovation school. The innovation plan shall include, but shall not be limited to: (i)  
1204 a curriculum plan, including a detailed description of the curriculum and related programs for the  
1205 proposed school, and how such curriculum is expected to improve school performance and  
1206 student achievement; (ii) a budget plan, including a detailed description of how funds will be  
1207 used differently in the proposed school to support school performance and student achievement;  
1208 (iii) a school schedule plan, including a detailed description of the ways, if any, the program or  
1209 calendar of the proposed school will be enhanced or expanded; (iv) a staffing plan, including a  
1210 detailed description of how the school principal, administrators, faculty and staff will be

recruited, employed, evaluated and compensated in the proposed school and any proposed waivers or modifications of collective bargaining agreements; (v) a policy and procedures plan, including a detailed description of the unique operational policies and procedures to be used by the proposed school, and how such procedures will support school performance and student achievement; and (vi) a professional development plan, including a detailed description of how the school will provide high quality professional development to its administrators, teachers and staff.

The innovation plan shall also include measurable annual goals including, but not limited to, the following: (i) student attendance or participation; (ii) student safety and discipline; (iii) student promotion and graduation and dropout rates; (iv) student achievement on the Massachusetts Comprehensive Assessment System; (v) progress in areas of academic underperformance; and (vi) progress among subgroups of students, including low-income students as defined by chapter 70, limited English proficient students and students receiving special education.

A majority vote of the committee shall be required for approval of the innovation plan.

Upon completion of the innovation plan for a public school conversion, the applicant shall submit any proposed waivers or modifications of an existing collective bargaining agreement in the innovation plan to members of the impacted local union in the public school that is proposed for conversion for approval by secret ballot within 30 days. A 2/3 vote of the members in the building shall be required to approve such plan. Upon approval of an innovation plan by the applicable union members the plan shall, within 14 days, be submitted to the school committee. If a 2/3 vote is not achieved, the innovation plan committee may revise the innovation plan as necessary, and submit such revised plan to the union members for a subsequent vote.

Upon the completion of the innovation plan for the establishment of a new school, the applicant, a local union and the superintendent shall negotiate waivers or modifications to the applicable collective bargaining agreement necessary for the school to implement the innovation plan; provided, however, that in a municipality with more than 500,000 residents there may be as many as 4 new Innovation Schools established solely with the approval of the superintendent and the school committee. Upon the conclusion of such negotiations, the innovation plan shall be submitted immediately to the school committee. If the parties fail to reach an agreement within 40 days, either party may petition the division of labor relations for the selection of an arbitrator. The division shall select an arbitrator within 3 days of such petition from a list submitted by the parties. The arbitrator shall conduct a hearing within 14 days of the arbitrator's selection. The arbitrator shall consider the parties' positions and the needs of the students in the district. The arbitrator shall submit a decision which shall be final and binding on the parties within 14 days of the close of the hearing; provided, however, that the arbitrator's decision shall be consistent with the contents of the innovation plan developed by the applicant.

(d) Upon receipt of an innovation plan a school committee shall hold not less than 1 public hearing on the innovation plan. Not later than 60 days after the receipt of the innovation plan, the school committee shall, by majority vote and on the basis of the quality of the plan, and in consideration of comments submitted by the public, undertake a final vote to authorize the innovation school for a period of not more than 5 years, subject to the provisions of subsection (e). If such approval is not achieved, an innovation plan committee may revise the innovation plan and: (i) in the case of a new school, submit such revised plan to the school committee for a subsequent vote; or (ii) in the case of a conversion, submit such revised plan to the teachers in the school that is proposed for conversion for a vote, pursuant to subsection (c) and, provided the plan meets the requirements for approval under said subsection (c), submit such revised plan to the school committee for a subsequent vote. A school committee shall vote on a revised plan submitted pursuant to this subsection within 60 days of the receipt of such plan and contract.

(e) All innovation schools shall be evaluated by the superintendent on not less than annually. The superintendent shall transmit such evaluation to the school committee and the commissioner. The purpose of such evaluation shall be to determine whether the school has met the annual goals in its innovation plan and assess the implementation of the innovation plan at the school. If the school committee determines, on the advice of the superintendent, that the school has not met 1 or more goals in the innovation plan, and that the failure to meet such goals may be improved through reasonable modification of such plan, the school committee may amend the innovation plan as necessary, consistent with subsection (c). After the superintendent assesses the implementation of the innovation plan at the school, the school committee may, on the advice of the superintendent, amend the plan if the school committee determines that such amendment is necessary in view of subsequent changes in the district that affect 1 or more components of the plan, including, but not limited to: changes to contracts, collective bargaining agreements or school district policies; provided, however, that any amendment involving a subsequent change to a teacher contract shall first be approved by teachers at the school, pursuant to the procedures in said subsection (c).

If the school committee determines, on the advice of the superintendent, that the school has substantially failed to meet multiple goals in the innovation plan, the school committee may, on the advice of the superintendent: (i) limit 1 or more components of the innovation plan, as necessary; (ii) suspend 1 or more components of the innovation plan, as necessary; or (iii) terminate the authorization of the school; provided, however, that such limitation or suspension shall not take place before the completion of the second full year of the operation of the school, and such termination may not take place before the completion of the third full year of the operation of the school.

At the end of the period of authorization of an innovation school, the leadership of such school may petition the school committee to extend the authorization of the school for an additional period of not more than 5 years. Before submitting such petition, the leadership of the school shall convene a selection of school stakeholders including, but not limited to,

administrators, teachers, other school staff, parents and external partners, as applicable, to discuss whether the innovation plan at the school requires revision, and to solicit recommendations as to such potential revisions. After considering the recommendations of the stakeholder group, the leadership of the school and the applicable superintendent shall jointly update the innovation plan as necessary; provided, however, that any proposal regarding a new waiver or exemption from the local teachers union contract shall be approved by teachers at the school, pursuant to the provisions of subsection (c). Approval of the majority of the school committee shall be required to extend the period of authorization of an innovation school. If such approval is not achieved, the leadership of the school and superintendent may jointly revise the innovation plan, pursuant to subsection (c) and submit such revised plan to the school committee for a subsequent vote. If the school committee does not extend the authorization of the school, the leadership of the school may seek such authorization from the board. The board shall vote on the requested extension within 60 days of its receipt for approval of such extension.

(f) The commissioner shall: (i) to the extent practicable, provide planning and implementation grants to eligible applicants to establish innovation schools; (ii) to the extent practicable, provided technical assistance and support to eligible applicants; (iii) assist in the collection and publication of data and research related to the innovation schools initiative; (iv) assist in the collection and publication of data and research related to successful programs serving limited English proficient students attending innovation schools; and (v) assist in the collection and dissemination of best practices in innovation schools that can be adopted by other public schools.

(g) Nothing in this section shall be construed as prohibiting: (i) the establishment of an innovation school as an academy within an existing public school; (ii) the establishment of an innovation school serving students from 2 or more school districts provided that all of the provisions of this section are met by each school district; (iii) the simultaneous establishment of 2 or more innovation schools as an innovation schools zone within a school district; or (iv) the establishment of an innovation school as a virtual public school that provides instruction to students through distance learning, including online learning programs and courses, subject to regulations promulgated by the board.

(h) The provisions of the collective bargaining agreements applicable to the administrators, teachers and staff in the school shall be deemed to be in operation at an innovation school, except to the extent such provisions are waived or modified under the innovation plan, and such waivers or modifications are approved pursuant to the preceding subsections.

(i) The board shall promulgate rules and regulations for the administration and enforcement of this section.

(j) The commissioner shall annually, no later than January 1, report to the joint committee on education and the house and senate committees on ways and means on the implementation and fiscal impact of this section.

SECTION 4. For the school districts in which net school spending on charter school tuition shall not exceed 18 per cent as set forth in subsection (i) of section 89 of chapter 71 of the General Laws, the following shall apply: in fiscal year 2011, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 12 per cent of said district's net school spending. In fiscal year 2012, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 13 per cent of said district's net school spending. In fiscal year 2013, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 14 per cent of said district's net school spending. In fiscal year 2014, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 15 per cent of said district's net school spending. In fiscal year 2015, a public school district's total charter school tuition payment to commonwealth charter schools shall be limited to 16 per cent of said district's net school spending. In fiscal year 2016, a public school district's total charter tuition payment to commonwealth charter schools shall be limited to 17 per cent of said district's net school spending. In fiscal year 2017, a public school district's total charter tuition payment to commonwealth charter schools shall be limited to 18 per cent of said district's net school spending.

SECTION 5. Notwithstanding any general or special law to the contrary, a charter school whose charter was granted prior to January 1, 2010 shall have a recruitment and retention plan required pursuant to subsections (e) and (f) of section 89 of chapter 71 of the General laws in effect for the 2011-2012 school year or at the time of its next charter renewal, whichever occurs first.

SECTION 6. Chapter 71 of the General Laws is hereby amended in Section 2 by adding after the word 'government' the following phrase:- and a program of relating to the flag of the United States of America, including but not limited to proper etiquette, the correct use and display of the flag, and the provisions of 36 U.S.C. 170 to 177.

SECTION 7. The department shall draft a model policy for school districts regarding the grade placement and eligibility for high school graduation of students leaving a commonwealth charter school and seeking to enroll in a district school. In drafting said model policy, the department shall confer with school districts and commonwealth charter schools. Said model policy shall be made available no later than December 31, 2010. Until a school district adopts a policy regarding the grade placement or eligibility for high school graduation of students leaving a commonwealth charter school, when determining the appropriate grade placement or eligibility for high school graduation of a student leaving a commonwealth charter school and enrolling in a district school, a district shall examine the course of study and level of academic attainment of the student.

SECTION 8. There is hereby established a charter school working group to study the fiscal impact of charter school upon the districts that would otherwise be expected to educate the students they enroll. The working group shall report its findings and conclusions to the general

1363 court and make recommendations regarding any necessary legislative and regulatory changes  
1364 which are suggested by those findings and conclusions. The first meeting of the working group  
1365 shall take place within 30 days after the effective date of this act.

1366 The working group shall consist of: the speaker of the house of representatives, or his designee;  
1367 the president of the senate, or her designee; the minority leaders of the house and senate, or their  
1368 designees; the house and senate chairs of the joint committee on education; the chairs of the  
1369 house and senate committee on ways and means, who shall serve as co-chairs; the secretary of  
1370 administration and finance, or his designee; the secretary of education, or his designee; the  
1371 Commissioner of Elementary and Secondary Education, or his designee; and 2 appointees of the  
1372 governor.

1373 In carrying out its charge, the working group shall examine, report on, and make  
1374 recommendations regarding, the following matters:

1375 (a) the appropriateness and effectiveness of the provisions of chapter 71, section 89(gg), as  
1376 amended by this act, at minimizing the adverse financial impact of charter schools on  
1377 sending school districts.

1378 (b) Whether a three-year period of time between charter approval, or significant expansion,  
1379 and the end of transitional reimbursements made under the provision of subsection (gg)  
1380 are sufficient for sending districts to adjust to the enrollment changes resulting from the  
1381 establishment, or expansion, of a charter school.

1382 (c) Whether tuition reimbursements payments should continue to be made to sending  
1383 districts for a period beyond three years after a charter school has reached its projected  
1384 and approved enrollment cap to reimburse rising costs associated with normal enrollment  
1385 fluctuations and inflation costs already included in calculations of so-called chapter 70  
1386 aid. Said report shall include approximate ongoing and projected costs to the  
1387 commonwealth of continuing such reimbursement for normal enrollment fluctuations and  
1388 inflation costs.

1389 (d) The appropriateness and financial implications of establishing a minimum percentage of  
1390 foundation budgets of students attending charter schools to be paid to sending districts by the  
1391 commonwealth from all state aid sources on an ongoing basis.

1392 The working group shall solicit advice from such persons and entities as it deems necessary,  
1393 including the department of education, associations representing superintendents, other  
1394 educational administrators, teachers, school business officers, municipal officials and charter  
1395 schools.

1396 The working group shall file a report containing its recommendations, including legislation and  
1397 regulations necessary to carry out its recommendations, with the joint committee on education  
1398 and the clerks of the house and senate not later than December 31, 2010 months following the  
1399 first meeting of the working group.’.

SECTION 9. Notwithstanding any general or special law to the contrary, any underperforming or chronically underperforming school, as designated by section 1J of chapter 69 of the General Laws, operating a limited English proficient program or programs for limited English proficient students in any 1 language group shall establish a limited English proficient parent advisory council. The parent advisory council shall be comprised of parents or legal guardians of students who are enrolled in limited English proficient programs within the school. Each parent advisory council shall have at least 1 representative from every language group in which a program is conducted in a given school. Membership shall be restricted to parents or legal guardians of students enrolled in limited English proficient programs within the school. The duties of the parent advisory council shall include, but not be limited to, advising the school on matters that pertain to the education of students in limited English proficient programs, meeting regularly with school officials to participate in the planning and development of a plan to improve educational opportunities for limited English proficient students, and to participate in the review of school improvement plans established under section 59C of chapter 71 of the General Laws as they pertain to limited English proficient students. Any parent advisory council may, at its request, meet at least once annually with the school council. The parent advisory council shall establish by-laws regarding officers and operational procedures. In the course of its duties under this section, the parent advisory council shall receive assistance from the director of limited English proficient programs for the district or other appropriate school personnel as designated by the superintendent.

SECTION 10. In order to inform the general court, and any legislative working group, in its efforts to appropriately identify the financial and programmatic resources required to achieve the educational goals of the commonwealth, the commissioner of elementary and secondary education is hereby directed to report and advise the general court on the following matters:

- a. The most current and accurate methodologies in use in other states, municipalities, or school districts in order to determine the programmatic and financial resources required to meet the educational goals of those states, municipalities, or school districts.
  1. The account of such methodologies shall include a summary of current academic debates, from refereed academic journals or other scholarly publications known to the department of elementary and secondary education (DESE) regarding the various strengths and shortcomings of the identified methodologies currently in use.
- b. A listing of the various academic and consulting services available to the general court if it chooses to utilize any one of, or combination of, the identified methodologies in its efforts to accurately identify the resources required to meet its goals.
  1. The listing shall include a proposal of how the general court should solicit participation by such academic or consulting services and secure such services at a competitive price.

- 1439 c. A detailed summary of the appropriate elements, matters, and topics to be evaluated and  
1440 addressed by such legislative study group and an anticipated timeline for the group to  
1441 thoroughly consider all relevant matters.
- 1442 d. An estimate of the likely cost of hiring consultant services to assist a legislative working  
1443 group in its efforts to appropriately identify the financial and programmatic resources  
1444 required to achieve the educational goals of the Commonwealth.
- 1445 e. A description of the services, support, and information that the department believes it is  
1446 best suited to provide to such a working group.
- 1447 f. A listing of the specific capacity of the department to provide the following information  
1448 and support to the working group and the budget necessary for the department to do so:
- 1449 1. Staff expertise on matters relating to school and district financing, program  
1450 offerings, and program evaluations.
- 1451 2. Data on school and district expenditures and revenues from all sources.
- 1452 3. An analysis of the costs and expenditures of schools and districts relative to the  
1453 categories of their foundation budgets as calculated pursuant to chapter 70 and  
1454 how such relative costs and expenditures have changed in the period since  
1455 adoption of the Massachusetts Education and Reform Act of 1993.

1456 The commissioner shall file his report containing any recommendations related to the above  
1457 listed matters with the joint committee on education and the clerks of the house and senate not  
1458 later than September 1, 2010.’.

1459 SECTION 11. Notwithstanding any general or special law to the contrary, regional school  
1460 transportation payments made by the state in any fiscal year through the general appropriations  
1461 act shall not be reduced by more than 110 per cent of any reduction made to chapter 70 payments  
1462 in that fiscal year.

1463

1464 SECTION 12. Section 61 of chapter 71 of the General Laws, as appearing in the 2008 Official  
1465 Edition, is hereby amended by adding the following paragraph:-

1466 A town may withdraw from participation in a union by a majority vote of the school committee  
1467 of the town. Said withdrawal may be for the purpose of forming an innovation school or  
1468 exploring alternative school governance structures. Withdrawal and termination of participation  
1469 by a town shall be independent of any pending votes regarding dissolution of the union or  
1470 pending votes by another town regarding its participation. The school committee shall designate  
1471 an effective date for termination or participation.

1472 SECTION 13. Notwithstanding any general or special law to the contrary, the Department of  
1473 Education is hereby authorized and directed to study the inequities resulting from the past and  
1474 current applications of the educational funding methodology contained in Chapter 70 of the



1475 general laws as established in the Education Reform Act of 1993 and subsequently modified  
1476 from time to time.

1477 Said study shall include but not be limited to a) inequities between communities arising from the  
1478 utilization of local educational authority spending prior to 1993 as a factor in determining a  
1479 community's ability to pay for education in subsequent years, b) inequities caused by an over-  
1480 reliance on the property value in a community in calculating a community's ability to pay for  
1481 education, and c) inequities produced by other elements involved in measuring the ability to pay  
1482 for education or the accurate cost of education in a particular community.

1483 The results of said study, together with any necessary legislative recommendations to eliminate  
1484 inequities in state educational funding for local school districts, shall be filed with the clerks of  
1485 the House and Senate not later than June 1, 2010.

1486 SECTION 14. Notwithstanding any general or special law to the contrary, regional school  
1487 transportation payments made by the state in any fiscal year through the general appropriations  
1488 act shall not be lowered by a greater percentage than any reduction made to state chapter 70  
1489 payments in that fiscal year"; and by striking out the title and inserting in place thereof the  
1490 following title: "An Act relative to the achievement gap."